

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #4	CCRB Case #: 201507939	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/16/2015 8:01 AM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 3/16/2017	EO SOL 3/16/2017	
Date/Time CV Reported Fri, 09/18/2015 12:12 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 09/18/2015 12:12 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. CPT John Buttacavoli	00000	918799	PBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Erik Depasquale	02370	936471	075 PCT
2. LT Eric Delman	00000	922228	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.CPT John Buttacavoli	Abuse: Cpt. John Buttacavoli authorized the entry of § 87(2)(b) in Brooklyn.	§ 87(2)(b)

### Case Summary

On September 16, 2015, § 87(2)(b) filed this complaint with IAB via telephone on behalf of herself and her son, § 87(2)(b). § 87(2)(b) did not witness the incident herself. The complaint was forwarded to the CCRB on September 22, 2015 via IAB log #2015-27755. § 87(2)(b) also filed a duplicate complaint directly with the CCRB via email on September 18, 2015.

§ 87(2)(g)

On October 2, 2015, the case was reassigned to Inv. Owen Godshall, the undersigned, from Inv. Harry Feigen.

At approximately 7:35 a.m. on September 16, 2015, a group of parole officers, including Parole Officer § 87(2)(b) and Parole Officer § 87(2)(b) traveled to § 87(2)(b) pursuant to an open parole warrant for § 87(2)(b). The parole officers spoke to the occupants of § 87(2)(b) through the door, and were able to identify § 87(2)(b) as one of the occupants by the sound of his voice. The parole officers placed a call over the radio for NYPD assistance at the location, while the occupants of the apartment simultaneously called to report a group of armed individuals outside of their door.

Several officers, including Sgt. Erik DePasquale of the 75<sup>th</sup> Precinct, responded to the parole officers' report. Shortly after the officers arrived, § 87(2)(b) attempted to exit § 87(2)(b) by climbing up the building's fire escape. Several police and parole officers, including Sgt. DePasquale and Parole Officer § 87(2)(b) ran up to the roof to head him off. When he saw that the officers had cut off his escape route, § 87(2)(b) threatened to jump off of the fire escape. Sgt. DePasquale, who was standing on the roof, attempted to talk § 87(2)(b) down. While they spoke outside, officers from ESU Truck 7 forcibly entered § 87(2)(b) where § 87(2)(b) and § 87(2)(b) live (**Allegation A**). § 87(2)(b) was not home, and § 87(2)(b) was asleep. The ESU officers woke § 87(2)(b) up, pulled him out of bed, and walked him into the building's hallway. The ESU officers then went out onto the fire escape through the windows of § 87(2)(b) where they were able to arrest § 87(2)(b) without further incident. No other individuals, including § 87(2)(b) were arrested.

### Mediation, Civil and Criminal Histories

§ 87(2)(b) stated her intention to file a lawsuit in regards to the incident. The case is therefore ineligible for mediation. A notice of claim request was submitted to the Comptroller's office on October 7, 2015. It will be included in the case file upon receipt. § 87(2)(b) [§§ 86(1)(3)&(4)] § 87(2)(g)

### Civilian and Officer CCRB Histories

- This is the second CCRB complaint involving § 87(2)(b) § 87(2)(b)
- § 87(2)(b) has filed three previous complaints with the CCRB. § 87(2)(b)

## Findings and Recommendations

### Explanation of Subject Officer Identification

- Sgt. DePasquale and Parole Officer § 87(2)(b) stated that ESU officers effected the entry into § 87(2)(b). Sgt. DePasquale did not witness the entry himself, and did not know which specific officers went inside, and did not know which ESU truck responded to the incident. The SPRINT recording, however, identified Truck 7 as the unit that responded. It also indicated that units from the Aviation Unit and Hostage Negotiation Team were involved (See Board Review: SPRINT). However, Sgt. DePasquale also identified both Cpt. John Buttacavoli and Lt. Eric Delman as the two supervisors who were in charge during the incident. § 87(2)(g)

### Allegations Not Pleaded

- **Force:** A force allegation is not being pleaded. § 87(2)(b) alleged that one of the ESU officers pulled him out of his bed and into the hallway when they entered. § 87(2)(b) went to the hospital after the incident, complaining of neck pain sustained when he was pulled out of the officer. He went on to explain, however, that this pain was caused by aggravation of an old injury, and was not directly caused by the officer's actions. As alleged, this force did not rise to the level of misconduct.

### Allegation A –Abuse of Authority: Cpt. John Buttacavoli authorized the entry of § 87(2)(b) in Brooklyn.

It is undisputed that ESU officers entered § 87(2)(b) while § 87(2)(b) was on the fire escape. § 87(2)(b) was interviewed at the CCRB on September 22, 2015 (See Board Review: Civilian Statements). § 87(2)(b) stated that he was woken up by officers who told him to leave his apartment. § 87(2)(b) did not observe the actions of the officers once he was removed from the apartment. Several minutes later, however, he observed them removing his neighbor, identified by the investigation as § 87(2)(b) from the apartment in handcuffs. When he went back inside, he saw that § 87(2)(b)'s room, which is adjacent to the fire escape, had been left in disarray. No other areas in the house appeared to have been disturbed.

Parole Officer § 87(2)(b) provided a telephone statement on October 2, 2015 (See Board Review: Parole Officer § 87(2)(b)'s Statement). Sgt. DePasquale was interviewed at the CCRB on October 5, 2015 (See Board Review: MOS Statements). Both stated that after the NYPD arrived to assist the parole officers in apprehending § 87(2)(b), § 87(2)(b) left § 87(2)(b) and climbed the building's fire escape. When officers ran to the roof to cut him off, § 87(2)(b) threatened to jump off of the building. While Sgt. DePasquale spoke to § 87(2)(b) on the roof, ESU officers were summoned to enter § 87(2)(b) and apprehend § 87(2)(b) on the fire escape. Sgt. DePasquale stated that he was not aware of any other emergency circumstances at § 87(2)(b) at the time besides § 87(2)(b) threats to jump off of the fire escape.

During the SPRINT recording, several officers reported that an individual attempted to climb the fire escape at § 87(2)(b) and that the suspect placed one of his legs over the side of the fire escape (See Board Review: SPRINT). § 87(2)(b)

§ 87(2)(b) The black male has one leg over the side of the fire escape. During his interview, Sgt. DePasquale identified the black male as § 87(2)(b) and one of the two officers on the roof as himself.

Officers may make warrantless entries into a location in order to render emergency assistance to an injured occupant or to protect an occupant from imminent injury. Such an entry cannot be primarily motivated by the intent to arrest or seize evidence. People v. Musto, 106 A.D.3d 1380 (App. Term 3<sup>rd</sup> Dept. 2013) (See Board Review: Legal Reference).

§ 87(2)(g)

§ 87(2)(g)

Pod:

Investigator: \_\_\_\_\_  
Signature Print Date

Pod Leader: \_\_\_\_\_  
Title/Signature Print Date

Attorney: \_\_\_\_\_  
Title/Signature Print Date